



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
Two Gateway Center  
Newark, NJ 07102  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF EC-EYE )  
COMMUNICATION AND TECHNOLOGY, INC. FOR A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO OFFER LOCAL EXCHANGE AND )  
INTEREXCHANGE TELECOMMUNICATIONS )  
SERVICES IN THE STATE OF NEW JERSEY )

ORDER

DOCKET NO. TE04091060

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated September 28, 2004, EC-Eye Communication and Technology, Inc. ("Petitioner" or "EC-Eye") filed the Petition with the New Jersey Board of Public Utilities ("Board") requesting a Certificate of Public Convenience and Necessity to offer resold and facilities-based competitive local exchange and interexchange telecommunications services in the State of New Jersey.

EC-Eye is a privately held corporation organized under the laws of the State of New Jersey. Rolando Q. Rivera, President of EC-Eye and Globaltech Limited Liability Partnership have 36%, and 35% ownership interest in EC-Eye, respectively. The remaining 29% is owned by 12 parties with each having 4% or less ownership interest in EC-Eye. Matrinox, Inc. is a joint venture between EC-Eye and FUA & IS of New Jersey, Inc. EC-Eye and FUA & IS of New Jersey, Inc. have 51% and 49% ownership interest in Matrinox, Inc. respectively. CallFree, Inc. is a newly formed corporation in which Rolando Q. Rivera has 25% ownership interest on behalf of EC-Eye and the remaining 75% is owned by 5 parties, each having 20% or less ownership interest. Petitioner's principal offices are located at 66 York Street, 5<sup>th</sup> Floor, Jersey City, New Jersey 07302.

Petitioner has submitted copies of its Certification of Incorporation and amended Articles of Incorporation from the State of New Jersey. According to the Petition, EC-Eye was formed to provide resold and facilities-based competitive local exchange and interexchange telecommunications services throughout New Jersey. Petitioner states that at present it is engaged in negotiations on the terms of an Interconnection and Resale Agreement with Verisign, Inc. and that it will file this agreement with the Board for approval within the next

45-60 days. Petitioner further states that it does not have any pending civil or criminal proceedings against it in any jurisdiction.

Petitioner seeks authority to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner states that it acquired spectrum licenses from the Federal Communications Commission and shortly thereafter, it deployed a Wireless Fidelity ("Wi-Fi") network in Jersey City, New Jersey. Petitioner further states that through its Wi-Fi network, it currently offers wireless internet access zones, commonly known as Wi-Fi zones which provide customers with a convenient option to access the internet, e-mail and corporate networks in public locations without the need for a physical connection. Petitioner states that recently it developed a variety of Wi-Fi telephones and personal digital assistants that permit customers to access local exchange, interexchange and international communications services if used in conjunction with its Wi-Fi network and the network of other carriers. Petitioner plans to offer these communications services over its enhanced Wi-Fi network in a manner which is comparable to traditional telecommunications services providers. This will enable Petitioner to, directly interconnect with the facilities-based telecommunications providers, obtain numbering resources, provide E-911, local number portability and access to law enforcement. Petitioner states that it will file a proposed tariff with the Board and that it maintains a toll-free number for customer service inquiries.

Petitioner requests a waiver of N.J.A.C. 14:1-4.3, which requires that books and records be maintained in accordance with the Uniform System of Accounts ("USOA"). In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, EC-Eye states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to EC-Eye, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications market place is required, assuming Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed EC-Eye's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey subject to its filing a tariff with the Board. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA. Therefore, subject

to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA.

DATED: 12/9/04

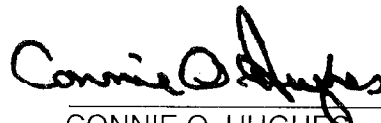
BOARD OF PUBLIC UTILITIES  
BY:



JEANNE M. FOX  
PRESIDENT



FREDERICK F. BUTLER  
COMMISSIONER

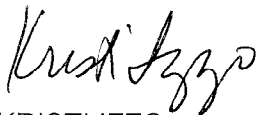


CONNIE O. HUGHES  
COMMISSIONER



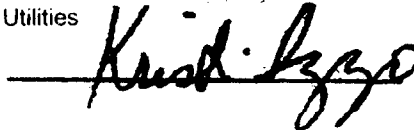
JACK ALTER  
COMMISSIONER

ATTEST:



KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



IN THE MATTER OF THE PETITION OF EC-EYE COMMUNICATIONS AND TECHNOLOGY,  
INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OFFER  
LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES WITHIN THE STATE OF NEW JERSEY

DOCKET NO. TE04091060

**SERVICE LIST**

1. **Petitioner's Contact Person:**

Rolando Q. Rivera  
President  
EC-Eye Communication and  
Technology, Inc.  
66 York Street, 5<sup>th</sup> Floor  
Jersey City, New Jersey 07302

4. **Ratepayer Advocate:**

Seema M. Singh, Esquire  
Director and Ratepayer Advocate  
Division of the Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P. O. Box 46005  
Newark, New Jersey 07101

2. **Petitioner's Attorney:**

Gregory D. Miller, Esq.  
Podvey, Sachs, Meanor, Catenacci,  
Hildner and Coccoziello  
The Legal Center  
One Riverfront Plaza  
Newark, New Jersey 07102

5. **Deputy Attorney General:**

Alex Moreau  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P. O. Box 45029  
Newark, New Jersey 07102

3. **Board's Staff:**

Walter P. Szymanski  
Director, Division of Audits  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

6. **Board's Staff:**

Anthony Centrella  
Director, Division of Telecommunications  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102